



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 15, 2005

Mr. Renaldo L. Stowers
Associate General Counsel
University of North Texas System
P.O. Box 310907
Denton, Texas 76203-0907

OR2005-02211

Dear Mr. Stowers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 223184.

The University of North Texas (the "university") received a request for offense report numbers 0951004, 1090105, 1120105. You state that some information is being released to the requestor. However, you seek to withhold social security numbers and Texas driver's license numbers pursuant to section 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that the social security numbers at issue are excepted under section 552.101 in conjunction with the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Prior decisions of this office have determined that social security numbers are not the type of intimate and embarrassing information protected under common-law privacy. *See* Open Records Decision Nos. 622 (1994), 455 (1987), 254 (1980), 169 (1977). Therefore, the social security numbers

¹ We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

at issue may not be withheld under section 552.101 in conjunction with common-law privacy.

We further note, however, that the 1990 amendments to the federal Social Security Act, section 405(c)(2)(C)(viii)(I) of title 42 of the United States Code, make confidential social security numbers and related records that are obtained or maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* In this case, we have no basis for concluding that any of the social security numbers at issue are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 on the basis of that federal provision. We caution, however, that section 552.352 of the Public Information Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, the university should ensure that no such information was obtained or is maintained by the university pursuant to any provision of law enacted on or after October 1, 1990.

With respect to the driver's license numbers at issue, section 552.130 of the Government Code provides in pertinent part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. We agree the university must withhold the Texas driver's license numbers under section 552.130 of the Government Code.

In summary, if the social security numbers at issue were obtained or are maintained by the university pursuant to any provision of law enacted on or after October 1, 1990, they are confidential under federal law and must be withheld under section 552.101 of the Government Code. Texas driver's license numbers must be withheld under section 552.130 of the Government Code. The remainder of the requested information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Saldivar", with a long horizontal flourish extending to the right.

David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 223184

Enc: Submitted documents

c: Ms. Sarah Timmons
P.O. Box 310389
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(w/o enclosures)